

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
AT&T Petition to Launch a Proceeding)	GN Docket No. 12-353
Concerning the TDM-to-IP Transition)	
)	
Petition of the National Telecommunications)	
Cooperative Association for a Rulemaking to)	
Promote and Sustain the Ongoing TDM-to-IP)	
Evolution)	

**REPLY COMMENTS OF
THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION**

The National Rural Electric Cooperative Association (“NRECA”), in accordance with the Federal Communications Commission’s (“Commission”) schedule and procedures set forth in the Public Notice, dated December 14, 2012,¹ hereby respectfully submits these reply comments in the above-captioned proceeding concerning the petition of AT&T Inc. (“AT&T”)² and the petition of the National Telecommunications Cooperative Association.³ In these reply comments, NRECA urges the Commission to adopt NTCA’s framework concerning the TDM-to-IP evolution as supported by a vast majority of the commenters and to reject AT&T’s proposed framework.

NRECA believes that the Commission can best further a comprehensive, rational, and

¹ See Public Notice, *Pleading Cycle Established on AT&T and NTCA Petitions*, GN Docket No. 12-353, DA 12-1999 (rel. December 14, 2012).

² *In the Matter of the Technological Transition of the Nation’s Communications Infrastructure*, GN Docket No. 12-353 (Petition to Launch a Proceeding Concerning the TDM-to-IP Transition) (Filed November 7, 2012) (“AT&T Petition”).

³ *In the Matter of the Technological Transition of the Nation’s Communications Infrastructure*, GN Docket No. 12-353 (Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution) (Filed November 19, 2012) (“NTCA Petition”).

uniform approach to the development of the TDM-to-IP evolution by taking a “smart regulation” view, with input from state regulators, and by ensuring that all interconnection for the exchange of voice traffic is subject to any applicable sections 251 and 252 of the Communications Act of 1934, as amended (“Act”) as advocated by NTCA.⁴

I. INTRODUCTION

NRECA is the national service organization for more than 900 not-for-profit rural electric utilities that provide electric energy to approximately 42 million people in 47 states or 12 percent of electric customers. In addition to 840 distribution cooperatives, NRECA’s members also include approximately 65 Generation and Transmission (“G&T”) cooperatives.⁵ Sales by rural electric cooperatives account for approximately 11 percent of all electric energy sold in the United States. Rural electric cooperatives were formed to provide reliable electric service to their owner-members at the lowest reasonable cost. Rural electric cooperatives are dedicated to improving the communities in which they serve. Management and staff of rural electric cooperatives are active in rural economic development efforts. NRECA’s members rely on a mix of wireless and wireline telecommunications services to support and maintain their rural electric generation, transmission and distribution systems. Rural electric cooperatives depend on robust telecommunications infrastructure and services to support their smart grid and other operational applications and, in some cases, to offer broadband services to their members in order to support their commitment to spur economic development in the communities in which they serve.

⁴ 47 U.S.C. §§ 251, 252.

⁵ The G&T cooperatives generate, purchase, and transmit power to the Distribution Cooperatives.

II. REPLY COMMENTS

A. The Commission Should Support the NTCA Petition

The NTCA Petition focuses on whether certain legacy PSTN regulations should be eliminated, retained, or modified in order “to promote and sustain the evolution of networks to IP”⁶ and proposes incentives for the development and maintenance of IP-enabled networks in a manner consistent with the FCC’s statutory objectives of consumer protection, promoting competition, and ensuring universal service.

Opening comments in this proceeding reflect widespread support for the proposals set out in the NTCA Petition. For example, NTCA’s approach to the TDM-to-IP evolution recognizes the roles of the federal and state governments in protecting consumers, promoting competition and universal service, each a core factor of the Act. As such, individual state commissions and other state authorities support the NTCA Petition.⁷ Likewise, the “smart regulation” balanced approach proposed by NTCA is supported by a broad consensus of small and rural carriers and other commenters.⁸ Identification of the rights and obligations governing the TDM-to-IP evolution and IP traffic and interconnection by the Commission and state regulators is important to encourage the rapid deployment of IP services. NRECA’s members increasingly rely on IP services to support and maintain their rural electric generation, transmission and distribution

⁶ NTCA Petition at 16.

⁷ See, e.g., comments of the Public Utilities Commission of Ohio (“conceptually” supporting NTCA’s approach of “smart regulation,” at p. 4 (January 25, 2013); comments of the Pennsylvania Public Utility Commission (January 30, 2013) at 7 (urging the Commission to adopt an approach not to “undermine independent state law, regulations or policies.”) (“PPUC Comments”); comments of the Washington Independent Telecommunications Association (stating “[e]very regulatory agency should periodically examine its rules to determine whether certain regulations should be eliminated, retained or modified to meet that agency’s goals and objectives.”) at 1 (January 28, 2013).

⁸ Comments of the Nebraska Rural Independent Companies at 10-15 (January 28, 2013); comments of the Critical Messaging Association at 4 (January 18, 2013); comments of Sprint Nextel Corporation at 20 (January 28, 2013); comments of COMPTTEL at 3 (“NTCA filing presents a more sound footing to guide the Commission”); comments of the National Exchange Carrier Association, Inc. and the Organization for Promotion and Advancement of Small Telecommunications Companies at 3-7 (“NECA & OPASTCO”).

systems and to support their commitment to spur economic development in the communities in which they serve.

Furthermore, contrary to Sprint's position,⁹ the Association believes that NTCA's request that the Commission develop a record to identify regulations that have limited or no applicability in the delivery of IP-enabled services is an important first step to promoting IP deployment. The Association also agrees with comments in this proceeding which recommend that the Technology Transitions Policy Task Force, announced by Chairman Genachowski in December 2012, proceed with working on policy recommendations for IP transition¹⁰ and that the Commission resolve regulatory issues raised in its *Transformation Order*.¹¹

B. An Effective Interconnection Framework is Essential to Promote the TDM-to-IP Evolution

The Commission should ensure that ILECs undergoing a transition from TDM-to-IP voice networks remain subject to any applicable requirements of Sections 251 and 252 of the Act. As stated in the NTCA Petition, "all interconnection for the exchange of traffic subject to sections 251 and 252 is governed by the Act, regardless of the technology that might happen to be used to achieve such interconnection."¹²

The Association supports comments in this proceeding which advocate NTCA's position on interconnection¹³ and which reject AT&T's position that after an ILEC has transitioned its

⁹ Sprint Nextel Corporation at 25-6.

¹⁰ Comments of the National Association of Telecommunications Officers and Advisors et al. at 3-4 (January 28, 2013); NASUCA at 10-11; Comments of Mass Dept of Tele and Cable at 14-15 (Commission should decline to act on the AT&T Petition and continue its review within its existing proceedings and through the Task Force).

¹¹ In re *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90 *et al.*, *slip op.* FCC 11-161, 26 FCC Red 17663 (2011) and subsequent Reconsideration and Clarification Rulings, *appeal pending*, In Re: FCC 11-161, No. 11-9900 (10th Cir.) (the "*Transformation Order*").

¹² NTCA Petition at 14.

¹³ See, e.g., comments of the Nebraska Rural Independent Companies at 48-49 (January 28, 2013).

facilities to IP technology, Section 251 is not applicable.¹⁴ As succinctly stated by T-Mobile, “[d]uring and after the transition to IP-based networks, the Commission will need to continue to exercise its authority under Sections 251 in order to prevent abuse in the exchange of traffic and the establishment of IP interconnection terms and conditions.”¹⁵ A crucial component of the continued TDM-to-IP evolution is an effective interconnection framework which promotes efficient use of technology and which protects the integrity and integration of TDM and IP-based networks. As observed by the Competitive Carriers Association, “precedent confirms that as network technologies continue to change.... the obligations of ILECs to provide interconnection and exchange telecommunications traffic remain in place.”¹⁶ Indeed, “[a]llowing AT&T to continue to disregard its interconnection obligations would be the death of competition and inconsistent with the statute.”¹⁷

NRECA also believes that AT&T wrongly conflates regulation of “information services” and the Internet with IP interconnection specifically for exchange of section 251 and 252 traffic between carriers.¹⁸ The pure transmission and exchange of content between two networks falls squarely within the definition of telecommunications and the Commission’s regulatory purview. Simply put, the Commission is authorized to regulate IP interconnection.

C. The Commission Should Allow Recovery of Costs for IP Interconnection and Stand Alone Broadband Service

The NTCA Petition proposes that the Commission should allow carriers to recover

¹⁴ See, e.g., comments of Cablevision Systems Corporation at 6-7 (January 28, 2013).

¹⁵ Comments of T-Mobile USA, Inc. at 11-7 (January 28, 2013).

¹⁶ Comments of the Competitive Carriers Association at 10 (January 28, 2013) (“CCA”).

¹⁷ Comments of Comptel at 8; Comments of the National Cable & Telecommunications Association at 10-11 (Commission must ensure that AT&T takes steps to avoid harm to interconnection arrangements) (January 28, 2013).

¹⁸ Comments of AT&T at 11-12.

through rates the costs of exchanging traffic through IP interconnects.¹⁹ Some commenters are opposed or skeptical of such cost recovery.²⁰ It is the Association’s view that recovery of such costs would be appropriate where, for example, specialized services and technologies are deployed to ensure prioritized routing of critical or delay-sensitive traffic, for example, by the electric power industry, first responders and other entities operating critical infrastructure, in lieu of having such traffic reside on “best efforts” public Internet networks.

The NTCA Petition also proposes that the Commission should consider universal service support for IP-enabled broadband networks where the customer has no voice service or utilizes an unregulated VoIP service.²¹ While comments are mixed on the merits of this approach, the Association believes that the Commission should consider updating its existing mechanisms for universal service in rural LEC areas so that customers in high-cost areas will have access to affordable high-quality broadband.

D. The Commission Should Deny AT&T’s Petition

The AT&T Petition requests that the FCC initiate a proceeding to facilitate industry transition from legacy transmission platforms and services to new services based fully on IP and allow AT&T to conduct trials where TDM-based services is replaced by IP-based services. In sum, AT&T argues, the Commission should lift the regulatory requirements that hinder their investment in transitioning their TDM networks to IP networks.

NRECA supports the statements of numerous commenters in this proceeding stating that the purpose of the proposals set forth in the AT&T Petition is the elimination both federal and

¹⁹ NTCA Petition at 14

²⁰ See *e.g.*, comments of CCA at 11-12; comments of the National Cable & Telecommunications Association at 13-14; comments of Sprint Nextel Corporation at 21-24.

²¹ NTCA Petition at 15.

state regulation²² and that the Commission lacks authority to preempt the States and grant the relief sought by AT&T.²³ Indeed, the proposals in the AT&T Petition “contravenes a fundamental provision of federal telecommunications law,” making wire and radio communications available to all the people of the U.S. with adequate facilities at reasonable charges.²⁴ As stated by the New Jersey Board of Public Utilities in its reply comments:

The AT&T proposal is a loose construct of general propositions absent an adequate basis that, if approved, would trigger immeasurable opposition by states and would bring to bear a fervent challenge and an unnecessary use of state resources dedicated to what is clearly an overreaching request not based in law or in fact.²⁵

NRECA agrees with comments that AT&T presents no empirical evidence to support its proposal²⁶ and fails to meet its burden of proof.²⁷ While some commenters support AT&T’s request for conducting a pilot program,²⁸ many commenters suggest that if the Commission decides to permit any AT&T pilot program, the pilots should be limited and subject to stringent conditions.²⁹ NRECA also agrees with commenters that AT&T’s proposed experiments pose a

²² NASUCA at 22-26.

²³ Comments of the State Members of the Federal-State Joint Board on Universal Service at 4-8 (“AT&T has made no [case for forbearance]”) (January 28, 2013); Comptel at 5-7.

²⁴ See generally comments NASUCA; comments of Comptel at 3 “[t]he Commission would be essentially rejecting competition and the importance of consumers having a choice in service providers [if it were to adopt the AT&T proposals].” (January 28, 2013); comments of the Massachusetts Department of Telecommunications and Cable at 14 (January 28, 2013) (AT&T’s proposal should not be implemented because it “falls short of encompassing the actions recommended in the National Broadband Plan.”).

²⁵ Reply Comments of the New Jersey Board of Public Utilities at 3 (February 21, 2013).

²⁶ NJBPU at 4. See also comments of XO Communications, LLC at 30-35 (arguing that AT&T’s request for market experiments are fundamentally flawed and a bad idea.) (January 28, 2013).

²⁷ See generally, comments of the NASUCA.

²⁸ See *e.g.*, comments of the Telecommunications Industry Association (January 28, 2012); comments of the Technology Network (January 28, 2013); comments of the American Consumer Institute (January 28, 2013); comments of the Free State Foundation at 8-9 (supporting general trials) (January 28, 2013); comments of the Ad Hoc Telecommunications Users Committee at 3- 4 (January 28, 2013).

²⁹ PPUC at 7-10; Western Telecommunications Alliance at 11-24 (supporting limited technical “trial runs” focusing on service impacts rather than regulatory issues) (January 28, 2013); comments of Cablevision Systems Corporation at 6-7 (compliance with IP interconnection arrangements under section 251 are required for any trial runs) (January 28, 2013); comments of NECA & OPASTCO at 9- 12.

significant risk to consumers and businesses.³⁰

For all the reasons stated above, NRECA believes that the Commission should deny the AT&T Petition.

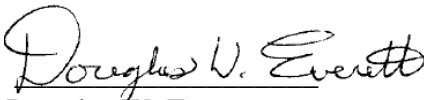
III. CONCLUSION

NRECA urges the Commission to adopt NTCA's framework concerning the TDM-to-IP evolution as supported by a vast majority of the commenters and to reject AT&T's proposed framework. The Commission can best further a comprehensive, rational, and uniform approach to the development of the TDM-to-IP evolution by taking a "smart regulation" view, with input from state regulators, and by ensuring that all interconnection for the exchange of voice traffic is subject to any applicable sections 251 and 252 of the Act. NRECA also believes that the Commission should deny the AT&T Petition.

Respectfully submitted,

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COOPERATIVE ASSOCIATION**

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³⁰ Comments of Broadvox, Inc. at 3 ("hastily eliminating regulations as suggested by AT&T will impose significant risk to consumers and businesses.") (January 28, 2013); comments of XO Communications, LLC at 31-35 (January 28, 2013).